

IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL

Writ Petition No. 788 of 2005 (S/S)

Navin Chandra
S/o Late Shri Ramesh Chandra
R/o A-203, Awas Vikas
Kashipur, Tehsil- Kashipur,
District – Udham Singh Nagar
...Petitioner

Versus

1. Union of India
through Secretary Postal and Telegraph Deptt.
2. The Assistant Director
Postal and Telegraph Department, Dehradun
3. The Senior Superintendent of Post Office, Nainital
4. Post Master, Kashipur,
District- Udham Singh Nagar ...Respondents

Sri Jitendra Chaudhary, learned counsel for the petitioner.

Ms. Anjali Bhargava, learned Standing Counsel (Central Govt.) for the respondents.

Hon'ble B.C. Kandpal, J.

By way of this Writ Petition, the petitioner has sought a writ in the nature of mandamus commanding the respondents to consider the claim of the petitioner sympathetically for the appointment on the post of Gramin Dak Sevak in Post Office Maldhan Chaur, District- Udham Singh Nagar.

Brief facts giving rise to this writ petition are that the petitioner was initially appointed on Class IVth Post as Waterman on temporary basis in the year 1991 and till 2001. The petitioner performed his duties at the place of his posting i.e., Post Office, Kashipur.

The petitioner being a temporary Waterman. i.e. Class IVth employee also worked as Packers, R.M.S., E.D.M.E. and postman in the office of the respondent no. 4 for more than 10 years.

In the year 2001, the petitioner filed a representation before the respondent no. 4, Post Master Kashipur regarding

his regular appointment in the post held by him. The respondent no. 4, in January, 2002 terminated the service of the petitioner vide oral letter without assigning any reason.

The petitioner thereafter made representation to the respondent no. 3, i.e., Senior Superintendent of Post Office Nainital against his illegal oral termination on 17.04.2002.

On 23.04.2002, the petitioner received a letter from the respondent no. 3 informing therein that the post of Waterman in Kashipur has been abolished, hence, his representation cannot be considered at present and in future, he may apply for Gramin Dak Sevak if vacancies occur. This letter sent by the respondent no. 3 is annexed as annexure-3 to the writ petition.

In the year 2003, the petitioner came to know that posts of Gramin Dak Sevaks are lying vacant in the post office of Maldhan Chaur which comes under control of respondent no. 4. The petitioner immediately moved the representation to the respondent no. 4 on 08.05.2003 but he has not received any reply even after sending the reminder regarding his grievance to the respondent no. 3. Further on 11.07.2003, he received a letter written by respondent no. 3 mentioning therein that he may send entire record regarding the post for which he had applied. The petitioner in pursuance to that letter dated 11.07.2003 again sent the representation alongwith the document.

The petitioner again received a letter by respondent no. 3 with a direction that the petitioner may file representation before the respondent no. 4 regarding his grievance and the petitioner in compliance to that letter made representation alongwith relevant document before the respondent no. 4 but nothing has been done as yet. Hence, this writ petition.

Heard learned counsel for the parties and perused the record.

The letter dated 23.04.2002 runs as follows:-

^,&32@Hkkx 11@ dk'khiij] uuhky 23-4-02
Mkd foHkkx e: prFk JI.kh %okVjeu% d: in ij fu;fer fu;fDr d:
IEc/k eA
mijkDr fo"k;d vkid: ikFkuk i= d: de e: voxr djuk g: fd
dk'khiij dk ikV: Vkbie lhtuy lh0ih0 okVjeu dk in orieku e:
lekr fd;k tk pdk g: vr% orieku e: vkidh fu;fer fu;fDr
ckcr ikFkuk i= ij fopkj ugh fd;k tk ldrk gA Hkfo"; e: xkeh.k
Mkd lod IEoxi e: fjDr gku ij vki vkonu dj ldr: gA^

If the averment made in the writ petition to the fact that the petitioner had worked as Waterman in the department for about 10 years, then in the event of the circumstances, he is certainly entitle to claim his appointment against the Class IVth post particularly under the circumstances when he had received the letter from respondent No. 4 that as and when the post of Gramin Dak Sevak exists, he may move the application accordingly.

This writ petition is finally disposed of with the direction that the respondent no. 3 and 4 shall sympathetically and in a positive manner decide the representation of the petitioner which he has already filed in January, 2005 as per the averment made by the petitioner in paragraph 15 of the writ petition.

The respondent no. 3 and 4 shall decide the representation of the petitioner within 30 days after receiving the certified copy of this judgment by speaking and reasoned order.

(B.C. Kandpal, J.)

21st June, 2005
Shiv